

**Meeting Date:** July 24, 2008

**Agenda Item No.** 19

**Agenda Item: Rules: Nonbiological for Big Game and Upland Game (Action)**

**Approved by:** \_\_\_\_\_

**Prepared by:** Brad Compton

**Background:**

Annually or biennially, the Idaho Fish and Game Commission considers proposed changes for 2 types of hunting rules, biological and nonbiological. Biological rules are published annually (i.e. Big Game, Waterfowl) or biennially (e.g. Moose, Bighorn Sheep, and Mountain Goat; Upland Game) and include seasons, limits, size, sex, and harvestable species. Nonbiological rules include all other rules adopted by the Commission. Examples of nonbiological rules include methods of take, tagging requirements, evidence-of-sex requirements, and controlled hunt eligibility requirements. Nonbiological rules are officially published in the Idaho Administrative Code (<http://adm.idaho.gov/adminrules/agyindex.htm>) and included in hunting regulation brochures.

Historically, the Commission generally considered changes to non-biological rules in January of each year. However, a Governor's Office moratorium exists prohibiting proposed rulemaking from mid-November through the legislative session.

**Rule:** 13.01.08.350. Identification of sex, size, and/or species in possession and during transportation or shipment.

**Issue:** Retaining evidence of sex after commercial processing of meat. Current evidence-of-sex rules require hunters to leave either the head/antlers or genitalia naturally attached while a big game carcass is being transported. The current rules technically require evidence-of-sex be left naturally attached when a hunter transports meat from a meat processing facility to home; an unnecessary inconvenience often overlooked by many hunters.

**Rule:** 13.01.08.410.02(f). Unlawful methods of take.

**Issue:** Use of 'red dot' scopes on crossbows by disabled archers. Current Commission rule allows hunters using bows or crossbows (disabled archery permit required) to use nonmagnifying (1x) scopes during archery-only seasons. However, scopes with battery powered or tritium powered reticles (e.g. 'red dot') are prohibited during archery-only seasons. Conversely, current Commission rule allows the use of battery powered or tritium lighted reticles to be used during any-weapon seasons. The vast majority of crossbows available today come equipped with a scope, many with 'red dot' scopes. Some disabled archery hunters have requested the ability to use battery powered or tritium lighted reticles because of extremely limited availability of non-scoped crossbows. In 2007 the Department issued 317 disabled archery permits.

**Rule:** 13.01.08.410.03(c)(iii). Unlawful methods of take.

**Issue:** Use of scopes by visually impaired hunters during muzzleloader-only seasons: In July 2006 the North American Muzzleloader Hunting Association filed a discrimination complaint with the U.S. Department of Interior against Idaho and other states that prohibit the use of scopes during muzzleloader-only seasons. The complaint contended that older hunters, and those with visual disabilities, were being discriminated against by prohibiting the use of scopes. The U.S. Department of Interior found that Idaho did not discriminate on the basis of age, but requested the Department provide "a written description of the process for persons with disabilities to receive special permits based on the documented need for reasonable modification during muzzleloader hunting seasons." Idaho currently provides several provisions for disabled hunters including special permits and licenses. However, none of the current provisions address visual impairment relative to muzzleloader-only hunts.

**Rule:** 13.01.08.260.03. Permits for controlled hunts.

**Issue:** Allowing senior and disabled hunters to apply for leftover youth controlled hunt permits: In 2007 the Department offered 1,300 deer controlled hunt permits and 485 elk controlled hunt permits for youth hunters (age 12-17). Limited numbers of applicants resulted in 593 unfilled deer permits and 43 elk permits. Current Commission rules prohibit non-youth from applying for leftover youth-only controlled hunt permits. Some senior and disabled hunters have requested

they be eligible to apply for leftover youth-only controlled hunt permits. Allowing limited numbers of senior and disabled hunters to participate in youth-only controlled hunts would have negligible effects on harvest and population management objectives. Removing eligibility restrictions for leftover youth-only controlled hunt permits is consistent with other existing Commission rules relative to leftover permits.

**Rule:** 13.01.17.100. Use of Bait.

**Issue:** Placement of bait containers prior to the opening of black bear hunting seasons. Current Commission rules prohibit the placement of bait for black bears prior to the opening of hunting season with exceptions for Units 10, 12, 16A, 17, 19, 20, 20A, 26, and 27. However, this prohibition does not cover placement of bait containers (i.e. barrels). Black bear hunters and Department staff have observed placement of bait containers well in advance of hunting season in apparent attempts to secure “the best spots.” Some black bear hunters have requested the rules on when bait can be placed also apply to bait containers.

**Rule:** Various.

**Issue:** Various rules (upland game, mandatory check of Panhandle elk, and bighorn sheep) published in the Administrative Code have not been updated to reflect recent Commission actions. Additionally, controlled hunt area descriptions and shooting hours (waterfowl) are now established by proclamation. Commission action is not required, but provided for informational purposes.

**Statutory Authority and/or Policy Issues:**

Idaho Code 36-104 grants authority to the Commission to promulgate biological and nonbiological rules. Idaho Code 67-52 (Idaho Administrative Procedure Act) governs the process for considering, adopting, and implementing nonbiological rules.

**Public Involvement Process:**

Proposed rules are being scoped with the public via regional meetings and through the Department web site. A summary of public input received will be provided to the Commission during presentation of this agenda item.

**Staff Recommendation:**

Public involvement activities are ongoing. The Department will review public comment and formulate final recommendations to be presented during the Commission meeting.

**Justification:**

Commission action required to adopt proposed rule changes.